



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

January 17, 1992

Ms. Elaine H. Piper  
Assistant City Attorney  
City of El Paso  
2 Civic Center Plaza  
El Paso, Texas 79999

OR92-25

Dear Ms. Piper:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 12966.

You have received a request for El Paso Police Department (the department) incident reports involving assaults relating to three specified persons. You advise us that 56 department case files have been located which are responsive to the request and representative samples of which you have submitted to us for review. You claim that the records are excepted from required public disclosure by sections 3(a)(1), 3(a)(2), 3(a)(3), 3(a)(7), 3(a)(8), and 3(a)(11) of the Open Records Act.

We agree that some of the requested information is excepted from required public disclosure by section 3(a)(1), which excepts "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." Subsection (d) of section 51.14 of the Family Code relates to the law enforcement files and records of juveniles. Subsection (d) states:

Except for files and records relating to a charge for which a child is transferred under Section 54.02 of this code to a criminal court for prosecution, the law-enforcement files and records are not open to public inspection nor may their contents be

disclosed to the public, but inspection of the files and records is permitted by:

- (1) a juvenile court having the child before it in any proceeding;
- (2) an attorney for a party to the proceeding; and
- (3) law-enforcement officers when necessary for the discharge of their official duties.


Because some of the requested information relates to juveniles who have been charged under provisions of chapter 51 of the Family Code and because there is no indication that the requester falls within any of the three exceptions contained in subsection (d) of section 51.14, the information contained in police reports which relates to juveniles is made confidential by law and may not be released. *See also* Open Records Decision Nos. 394 (1983) at 4-5; 181 (1977). Accordingly, you may withhold such portions of the requested information under section 3(a)(1).

You also claim that some of the records are excepted from required public disclosure by section 3(a)(8). In *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177, 186-187 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976), the Texas Supreme Court ruled that first page offense report information is available for public inspection. *See also* Open Records Decision Nos. 366 (1983); 127 (1976). Information made available under the *Houston Chronicle* decision includes the arrestee's name, alias, race, social security number, sex, age, occupation, address, police identification number, physical condition, name of arresting officer, date, time, and place of arrest, booking information, charge, court in which charge is filed, details of the offense and/or arrest, notation of any release or transfer, bond information, identification and description of complainant, property and vehicle involved, and description of weather. Open Records Decision No. 474 (1987) at 4-5 held that where an incident involving allegedly criminal conduct is still under active investigation or prosecution, section 3(a)(8) may be invoked by any proper custodian of records to information that relates to the incident. When section 3(a)(8) is claimed, it must be determined whether release would undermine a legitimate interest of law enforcement or prosecution, and a case-by-case approach is necessary. Open Records Decision No. 434 (1986); *see Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You advise us that the requested case reports relate to pending litigation, are currently under investigation by the police department, and contain the names of non-arrested suspects. In addition, you advise us that release of the requested investigation would "interfere with law enforcement's ability to freely list and investigate possible suspects" and result in retaliation against witnesses. We have examined the case reports submitted to us for review and agree with your assertion that release of the requested documents would unduly interfere with law enforcement or crime prevention. Accordingly, except for information held to be public by *Houston Chronicle*, the case reports submitted to us for review may be withheld from required public disclosure under section 3(a)(8). The case reports not submitted to us for review may be withheld from required public disclosure to the extent that they contain information of the same type held to be excepted in this ruling. Because we resolve this request under sections 3(a)(1) and 3(a)(8), we need not address the applicability of sections 3(a)(2), 3(a)(3), 3(a)(7), and 3(a)(11) at this time.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-25.

Yours very truly,



John Steiner  
Assistant Attorney General  
Opinion Committee

JS/GK/lcd

Ref.: ID# 12966

cc: Ms. Gloria Munson  
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